

GOAL 3- THE RULE OF LAW AND PROCESS:

Administer the law, as Congress intended, to refocus the Agency on its statutory obligations under the law.

OBJECTIVE 3.1-COMPLIANCE WITH THE LAW:

Enforce environmental laws to correct noncompliance and promote cleanup at contaminated sites.

Petition to Withdraw Texas's Federally Approved/Authorized Permitting Programs

On January 11, 2016, the Environmental Defense Fund and Caddo Lake Institute filed a Petition for Administrative Action asking EPA to withdraw National Pollution Discharge Elimination System permitting authority under the Clean Water Act from Texas Commission on Environmental Quality and requesting that EPA find Texas's New Source Review permitting program under the Clean Air Act substantially inadequate.

The Petition alleges that amendments adopted by Texas in 2015 to the state's contested case hearing process restrict public participation in the permitting process contrary to Texas's federally approved/authorized permitting programs by 1) restricting the public's ability to obtain judicial review of permitting decisions, 2) reducing opportunities for public participation by increasing the burden on permit opponents in a contested case hearing, and 3) providing inadequate resources for implementation and enforcement of the Clean Water Act and Clean Air Act.

The Petition and the revisions themselves also highlight a broader NPDES, Title V, and New Source Review authorization issue. EPA based its 1998 authorization of the Texas Clean Water Act program upon a finding that participation in a contested case hearing was not a prerequisite to judicial review. Texas made the same assertion during EPA's approval of Texas's Title V and New Source Review programs under the Clean Air Act. EPA is working with the state to understand the meaning of recent state court decisions, as well as statements made by the Texas Attorney General, which may call into question the adequacy of public participation in the state's programs. EPA has begun an initial, informal investigation into the allegations in the Petition. The objective of this investigation, which is provided for under the Clean Water Act and EPA's implementing regulations, is to gather enough information to reach a preliminary assessment as to whether cause exists to initiate formal withdrawal proceedings. There is no statutory or regulatory deadline to complete the informal investigation. At some point the petitioners may seek to have the Federal Court set a schedule for an EPA decision on the petitions.

OBJECTIVE 3.2-CREATE CONSISTENCY AND CERTAINTY:

Outline exactly what is expected of the regulated community to ensure good stewardship and positive environmental outcomes.

OBJECTIVE 3.3-PRIORITIZE ROBUST SCIENCE:

Refocus the EPA's robust research and scientific analysis to inform policy making.

Illinois River Multijurisdictional Nutrient Modeling Effort

The \$1.5 million modeling effort relies on two highly specialized computer models – a watershed and lake model – and is designed to reproduce conditions within the watershed. While the watershed model has been completed, the lake model met delays earlier this year and is delayed until April 2018.

Pollution controls in this two-state jurisdiction have been controversial for many years. As the Attorney General for Oklahoma, Scott Pruitt worked with his counterpart in Arkansas to reach agreement to study the water quality of the Illinois River that crosses between the two states and has been enjoyed by generations of Oklahomans and Arkansans. The Statement of Joint Principles provided for a best science study using EPA-approved methods, with both states agreeing, for the first time, to be bound by the outcome.

Oklahoma and Arkansas agencies have provided detailed comments on the modeling efforts to date. The EPA regional staff have reviewed and made modifications to the model calibrations in an effort to address stakeholder concerns and continues to strive to achieve consensus among the principals as to the utility of the watershed and lake models.

EPA continues developing technically robust and scientifically defensible water quality models of the Illinois River Watershed in northeast Oklahoma and northwest Arkansas. Once completed, the data can be used to help derive Total Maximum Daily Loads for the watershed and reduce nutrient loadings in the watershed. The watershed is currently impaired as a result of nutrient loadings from municipal discharges and nonpoint sources (e.g., agricultural runoff).

Since 2009, EPA has been funding, on-behalf of our regulatory partners from both Oklahoma and Arkansas, the development an agreed upon scientific model to use in developing TMDLs or other load reduction approaches where needed. EPA plans to release the revised water quality models for public review and comment.

Some business sectors including the poultry industry is concerned that the modeling and possible subsequent Total Maximum Daily Loads would adversely affect the land application of poultry litter in the watershed and provide a target loading for nonpoint reductions.

OBJECTIVE 3.4-STREAMLINE AND MODERNIZE:

Issue permits more quickly and modernize our permitting and reporting systems.

Treatment as a State Lean Project

Region 6 has created a Lean project team comprised of EPA Region 6 and tribal environmental staff members working to reduce the time required for approval of tribal applications to implement water quality standards programs.

The Clean Water Act, Safe Drinking Water Act, and Clean Air Act emphasize the role of states in protecting the environment and public health and allow EPA to authorize states to implement their own programs in lieu of the federal program (referred to as program authorization). From 1986 to 1990, Congress amended these three acts to authorize EPA to treat pueblos and tribal nations in a similar manner as a state for purposes of program authorization.

Under EPA's implementation of the Clean Water Act, a tribe may submit a request to EPA for Treatment as a State status and a request for approval of its adopted water quality standards, either separately or

at the same time. Section 518 of the Clean Water Act lists the eligibility criteria EPA will use to approve Treatment as a State status and to authorize Indian tribes to administer Clean Water Act programs.

Region 6 currently has 13 pueblos and tribal nations that have achieved Treatment as a State status for water quality standards, and 11 pueblos have federally approved water quality standards.

The last four Treatment as a State applications for water quality standards have taken more than two years to approve, and a current Clean Air Act grant Treatment as a State application is approaching two and a half years for approval.

OBJECTIVE 3.5-IMPROVE EFFICIENCY AND EFFECTIVENESS:

Provide proper leadership and internal operations management to ensure that the Agency is fulfilling its mission.

Lead Region for Information Technology

For Fiscal Years 2017 and 2018, Region 6 is serving as the Information Technology Lead Region. On a two-year rotating basis, a regional office is designated by the Office of Environmental Information (OEI) as the Information Technology (IT) Lead Region to support OEI in its implementation of the Agency's information technology/information management priorities.

The Lead Region for Information Technology is responsible for representing all EPA Regions in discussions and decision-making processes, and for communicating the Agency's Information Technology/Information Management Strategic Advisory Committee recommendations, decisions, and implementation requirements to the other Regions.

A bi-weekly teleconference is held with the Agency's Chief Information officer, Deputy Regional Administrator (DRA), and the Region 6 Senior Information Officer to establish IT/IM priorities, review progress on initiatives, discuss related issues, and make decisions of Agency-wide significance. Cybersecurity and IT/IM budgeting issues are also considered. Decisions made in these meetings are subsequently communicated by Office of Environmental Information and the Lead Region through the governance structure.

The Lead Region system was established in 1984 to provide an organized, facilitative, and consistent mechanism for EPA HQ and the ten regional offices to interact together. The system enhances EPA's ability to protect human health and the environment and is at the forefront of HQ initiatives in soliciting regional input on Agency decisions, incentivizing participation, and leveraging effective communication.

EPA Lab Study

Region 6 has one of 6 regional laboratories that occupy space leased from private companies. The Houston Environmental Laboratory lease expiration date is June 30, 2020.

EPA has announced decisions not to renew developer-leased laboratories in Region 4 and 8 and consolidate in government-owned facilities. The four remaining labs' leases are facing expirations over the next few years and are currently being evaluated and the announced is expected in January 2018.

The laboratory is a full service analytical laboratory providing routine and specialty environmental analytical services for air, soil, water, and drinking water samples.

Options for the future of the Houston Environmental Laboratory are currently being developed in collaboration with Office of Administration Resource Management. There is a great benefit of having the lab located in Houston due to the major Gulf Coast industrial presence and the ability to provide assistance during natural disasters that are common along the Gulf Coast. A recent example of this important function is the service it provided in responding to Hurricane Harvey.

Region 6 will need laboratory space for support of analytical services, and office/cube space for program personnel and contractors. There are 33 FTE assigned to our lab unit, 10 FTE from other business units and 10 contractors that support the facility with analytical services, security, records management, IT support and administrative assistance. Additional considerations include provision for a Hazardous Materials Storage area, loading dock, and parking for the lab's fleet vehicles, trailers, and mobile labs, all contained within a secure fence. We estimate we will need 10,000 square feet for personnel/program/mission support (this includes circulation) and an additional 16,000 square feet for the laboratory functions.

In December 2012, EPA began a study of its laboratory enterprise to identify opportunities to increase efficiency and effectiveness while ensuring the agency's ability to continue to provide the preeminent research, science, and technical support critical to advance our mission.

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Colonias Along the US–Mexico Border in the States of Texas & New Mexico

A colonia is an underserved community along the US–Mexico border that may lack basic living necessities such as potable water, septic or sewer systems, electricity, or safe and sanitary housing, creating a number of health threats for residents of these communities. Texas has 2,294 colonias and the largest colonia population of the four US border states, approximately 400,000 inhabitants. EPA has funded a number of projects to help address environmental issues facing colonia residents, including grants for environmental education on the proper maintenance and decommissioning of septic tanks in southern New Mexico and west Texas. In addition, in a partnership with EPA’s Office of Children’s Health, EPA has trained community health workers along the border on the Healthy Homes curriculum that addresses the indoor environment. In August 2016, the Border program and the EJ program collaborated to assist local stakeholders organize a Colonias Emergency Preparedness Conference in Alamo, Texas. More than 110 colonia residents attended the event to learn how to prepare for, survive and recover from a disaster.

EPA holds Border 2020 Taskforce public meetings to get input from the public and border stakeholders on priorities. The agencies that work in colonias attend and provide input to EPA on which environmental priorities should be considered. EPA incorporates the priorities and other concerns raised by the public at Task Force meetings in the Region's work plans. The concerns are also considered for incorporation into the next Request for Proposals for the US-Mexico Border program.

RCRA Land Revitalization Program

Region 6 has been a national leader in the RCRA program by providing assistance to our states in streamlining the cleanup process, and promoting the productive reuse of properties that have been investigated and, if necessary, cleaned up.

Contaminated properties (real or perceived) often sit idle, abandoned, underutilized or warehoused because of the inherent disincentives to investigating and remediating sites, such as unrealistic remedial objectives, cost, liability issues, lack of a formal mechanism that recognizes that environmental conditions are protective prior to achieving final cleanup objectives, etc.

In 2000, Region 6 developed the Corrective Action Strategy (CAS), a regional corrective action streamlining approach, to accelerate corrective action through the use of practical, performance and risk-based approaches to site characterization and cleanup, focusing on the current and future use of the property. (The previous process-driven approach to corrective action was overly time-consuming and costly.) Since 2000, the CAS has been used by Region 6 states and private companies to complete investigations and cleanups sooner than would have been achieved using conventional means. The CAS helps them define with certainty what their environmental obligations and requirements will be up-front, thus allowing for better planning and implementation of remedies that are cost effective while being protective of human health and the environment.

Accordingly, in 2002, EPA Region 6 developed the Ready for Reuse (RfR) concept as a new measure of remedial progress in the corrective action process. It subsequently became a cross- program benchmark for all the EPA/state land-based cleanup programs. RfR promotes expedited investigation and remediation of sites by considering the end use of a property up front, and also facilitates their reuse/redevelopment by explaining, in a straightforward manner, the technical basis for the determination, the environmental conditions on the property, and any land use limitations. The RfR provides comfort to stakeholders by affirming that conditions on a property are protective of human health and the environment based on its current and planned future use.

Remedial Action Contract

For the last 10 years, all regional offices have used a full-service Remedial Action Contract system for federally funded assessment and cleanup of Superfund sites. Under this contracting system, the same contractor worked on all phases of worksite investigation, remedial design, and remedial construction. Headquarters awarded these contracts after national competition. The Region 6 contracts are scheduled to expire in 2019.

After several audits that criticized the use of a single contractor to perform all site work, the Office of Management and Budget (OMB) stated EPA needed to develop a replacement contract mechanism with the goal to maximize competition, realize cost efficiency and strengthen the contract management processes. EPA developed a replacement contracting process called the Remedial Acquisition Framework. Under this new system, replacement contracts will be awarded nationally and each region will have up to 10 contractors in each of three categories: site investigation, remedial design, and remedial construction. Regions will be responsible for obtaining competitive bids from contractors in each category for individual task orders.

This system will meet the OMB goal to maximize competition, but at a cost to EPA staffing. The new process will be labor intensive, increase administrative costs of cleanup and add a year or more to the

time required to address the site. Further delays could also result from bid protests among the qualified contractors.

Since the Superfund budget has been flat for several years, the increased administrative costs will result in less money available for site work. The schedule for awarding the Remedial Acquisition Framework contracts has been delayed by at least a year. If further delays occur, site cleanups could be halted indefinitely.